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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

PATRICK M.,

Petitioner,

v.

THE SUPERIOR COURT OF KINGS COUNTY,

Respondent;

KINGS COUNTY HUMAN SERVICES AGENCY,

Real Party in Interest.

E.S.,

Petitioner,

v.

THE SUPERIOR COURT OF KINGS COUNTY,

Respondent;

KINGS COUNTY HUMAN SERVICES AGENCY,

Real Party in Interest.

F070624

(Super. Ct. No. 13JD0090)

OPINION

F070625

(Super. Ct. No. 13JD0090)

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Jennifer Lee Giuliani, Judge.

* Before Levy, Acting P.J., Kane, J., and Peña, J.

Patrick M., in pro. per. for Petitioner Patrick M.

E.S., in pro. per. for Petitioner E.S.

No appearance for Respondent.

Kathleen Bales-Lange, County Counsel, and Amy-Marie Costa, Deputy County Counsel, for Real Party in Interest.¹

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Petitioners Patrick M. and E.S. (mother) seek extraordinary writ relief from the juvenile court's orders terminating their reunification services and setting a Welfare and Institutions Code section 366.26 hearing² as to their six-year-old son Eli and three-year-old son Ian.³ They contend the juvenile court erred in finding they were provided reasonable reunification services. We deny the petition.

PROCEDURAL AND FACTUAL SUMMARY

In December 2013, Patrick and mother were arrested after the police found stolen property and evidence that Patrick and mother were participating in criminal sexual activity with minor females in the hotel room where the family was living. Patrick and mother were also under the influence of methamphetamine. The Kings County Human Services Agency (agency) took then five-year-old Eli and two-year-old Ian into protective custody and placed them together in foster care.

¹ While this case arose and remains in Kings County Juvenile Court, the Kings County Human Services Agency and County Counsel's Office declared a conflict of interest. Tulare County Child Welfare Services Agency and County Counsel's Office took over the case as a courtesy.

² All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

³ On our own motion we consolidate the petitions in our case numbers F070624 and F070625.

The juvenile court exercised its dependency jurisdiction over the children and ordered reunification services for Patrick and mother to complete upon release from incarceration or while incarcerated if available. Specifically, their services plans required them to complete mental health and substance abuse assessments and programs in sexual abuse treatment and parenting, attend weekly Alcoholics/Narcotics Anonymous (AA/NA) meetings, and submit to random drug testing. The plan required the agency to provide Patrick and mother reading material related to substance abuse, sexual abuse and parenting while they were incarcerated.

In its report for the six-month review hearing, the agency recommended the juvenile court continue reunification services for Patrick and mother because they were completing written parenting assignments, the children were participating in therapy and Patrick and mother were incarcerated and did not have an expected release date. The agency also reported that the only services available to Patrick and mother were bible studies, AA/NA meetings and independent studies to obtain a high school diploma. Mother was not participating in any of the services. Patrick participated in bible studies and AA/NA meetings until he got into a physical fight with another inmate and was terminated from the classes.

In August 2014, at the six-month review hearing, the juvenile court found the agency provided Patrick and mother reasonable services but that their progress was minimal. The court continued their services to the 12-month review hearing, which it set for October.

After the six-month review hearing Patrick and mother reported they were seeing a therapist in the Kings County jail. It turned out the person they were seeing was a psychiatric technician who was not providing therapy. However, Patrick was being seen by a psychiatrist for post-traumatic stress disorder.

In September 2014, Patrick wrote social worker Michelle Macias a letter complaining about her handling of his case, including her failure to provide written materials. Macias explained in her written response that the agency did not have written materials for drug and alcohol treatment.

In its report for the 12-month review hearing, the agency recommended the juvenile court terminate Patrick and mother's reunification services because their criminal charges were still pending and it was unlikely they would be able to reunify with the children if provided another six months of services. The agency also informed the court that it continued to evaluate relatives for placement.

In October 2014, the juvenile court convened the 12-month review hearing. Patrick and mother appeared in custody with their attorneys. Mother's attorney submitted on the agency's recommendation. Patrick's attorney submitted on the agency's report. The juvenile court found the agency provided them reasonable services but that they made minimal progress. The court terminated their services and set a section 366.26 hearing. This petition ensued.

DISCUSSION

Patrick and mother (petitioners) contend the juvenile court erred in terminating their reunification services because they were not provided reasonable services. Section 366.21, subdivision (f) governs the juvenile court proceedings at the 12-month review hearing. When the juvenile court decides it cannot safely return the child to parental custody, the juvenile court may continue services to the 18-month review hearing if it finds either (1) the parent was not provided reasonable services, or (2) there is a substantial probability the child will be returned to the parent's physical custody by the 18-month review hearing. (§ 366.21, subd. (g)(1).) In making its determinations, the juvenile court must consider the barriers to an incarcerated parent and his or her ability to

access court-mandated services and maintain contact with his or her child. (§ 366.21, subd. (f).)

Petitioners contend the agency failed to provide reasonable services because Macias did not provide to them written materials regarding substance abuse and sexual abuse or revise their case plans to suit their circumstances.

As a preliminary matter, we observe that mother forfeited her right to challenge the juvenile court's order terminating her reunification services. The forfeiture occurred when her attorney submitted on the agency's recommendation.⁴ Nevertheless, we conclude substantial evidence supports the juvenile court's reasonable services finding as to mother and Patrick.

As part of its reasonable services finding, the juvenile court must find that the supervising agency offered services targeting the family's problems and made reasonable efforts to help the parent comply with court-ordered services, even where compliance is difficult. (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) We review the juvenile court's reasonable services finding for substantial evidence; i.e., we view the evidence in a light most favorable to the respondent, indulging in all legitimate and reasonable inferences to uphold the finding. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) If substantial evidence supports the juvenile court's finding, we will not disturb it. (*Ibid.*)

Petitioners were incarcerated throughout the proceedings in this case with no projected release date and the services ordered for them were not available at the facility in which they were incarcerated. Moreover, parenting was apparently the only service for which written materials were available and those materials were provided to petitioners. As to substance abuse related materials, Macias told Patrick that the agency

⁴ When a parent submits on a social worker's recommendation, he or she forfeits the right to contest the juvenile court's decision if it coincides with that recommendation. (*In re T.V.* (2013) 217 Cal.App.4th 126, 136.)

did not have such material and there is no evidence petitioners inquired about sexual abuse related material.

The agency has no control over the services available to an incarcerated parent. Therefore, there was nothing more the social worker could have done to assist petitioners in completing their case plan requirements.

Petitioners appear to argue that the agency could have modified their case plan requirements to coincide with the services available to them in jail. That, however, is not a viable alternative in this case and would have surely raised a challenge to the reasonableness of the services plan content. That is so because the services ordered must target the unique needs of the family. In this case, petitioners had serious substance abuse and sexual abuse problems to overcome and services to address these problems were a necessity. Consequently, any plan that did not include them would not have been reasonably designed to treat the problems necessitating the children's removal.

On this record, the agency's failure to provide petitioners written materials on substance abuse and sexual abuse or to modify their case plan requirements to conform to the services available to them in jail was not unreasonable. We conclude, therefore, substantial evidence supports the juvenile court's reasonable services finding and its orders terminating petitioners' reunification services and setting a section 366.26 hearing.

DISPOSITION

The petition for extraordinary writ is denied. This opinion is final forthwith as to this court.